

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**WRIT PETITION NO.604 OF 2019
PANDURANG MAHADOO GONEWAD
VERSUS
SUB DIVISIONAL OFFICER BHOKAR AND ANOTHER**

**WRIT PETITION NO.626 OF 2019
SHOBHA BALIRAM GONEWAD
VERSUS
SUB DIVISIONAL OFFICER BHOKAR AND ANR**

**WRIT PETITION NO.628 OF 2019
GANESH KESHAV GONEWAD
VERSUS
SUB DIVISIONAL OFFICER BHOKAR AND ANR**

Mr.Sagar S. Phatale, Advocate for the petitioners.
Ms.R.P.Gaur, Mrs.M.A.Deshpande and Mr.A.R. Kale, AGPs for
respondent/State.

**CORAM : PRASANNA B. VARALE &
S.M.GAVHANE, JJ.**

DATED : 23.01.2019

P.C. :-

1. These three petitions involve identical issue,
namely, rejection order passed by the Sub-Divisional
Officer as well as by the Scheduled Tribe Certificate

Scrutiny committee, the petitions are taken up together for hearing disposal.

2. The petitioners are the family members, including brothers and sisters from one Gonewad family. All these three petitioners were prosecuting their academic courses at various levels and have approached the Sub-Divisional Officer, Bhokar, Dist. Nanded by submitting an application for issuance of caste certificate in favour of the petitioners that they belong to Koli-Mahadev – Scheduled Tribe. The petitioners have placed various documents, such as, copy of school leaving certificate, residence certificate and caste certificate issued in favour of one Bhagwan Manika Gonewar, who is cousin of the petitioners. Our attention was invited to these documents. The caste certificate issued in favour of the cousin Bhagwan Manika Gonewar is produced at Exh."D" in Writ Petitions. There is also an affidavit of Mr. Bhagwan to submit that petitioner – Pandurang in Writ Petition No.604 of 2019 is his close blood relative,

namely, cousin and there is also reference made to family tree in the family.

3. Learned Counsel submitted before us that the Sub-Divisional Officer while rejecting prayer for issuance of certificate assigned only one reason that the petitioners failed to produce any document prior to 1950 and the documents submitted by the petitioners are post 1950. Learned Counsel submitted that insofar as revenue record prior to 1950 is concerned, as the petitioner was not in possession of any such record, the petitioner relied on only those documents which were available with the petitioners including caste certificate issued in favour of the cousins of the petitioner. It was further submitted by the learned Counsel that the Sub-Divisional Officer has not considered that the material piece in the form of certificate issued in favour of cousin of the petitioner and proceeded only on other aspect namely, failure of the petitioners to submit documents prior to 1950. Learned Counsel then submitted that being aggrieved

by the order of the Sub-Divisional Officer, petitioner approached the Scrutiny Committee by presenting appeal and the Scrutiny Committee also followed the line of reasoning of the Sub-Divisional Officer. The learned Counsel submitted that the Scrutiny Committee being an appellate forum, ought to have considered the material independently and on assessment of the material was required to arrive at conclusion, but this course is not adopted by the Scrutiny Committee and the Scrutiny Committee mechanically dismissed the appeal, concurrent with the decisions of the Sub-Divisional Officer. Learned Counsel then invited our attention to the judgment of this Court in bunch of petitions, namely, Writ Petition No.12479 of 2017 and connected petitions. It may be useful for our purpose to refer to the relevant observations of the Division Bench and they are reflected in paragraph 5.

"5. We have gone through the orders passed by the Committee. Time and again we have directed the Committee to decide the application for caste/tribe certificate based on the documents submitted by the parties. There cannot be a

thumb rule that only if documents prior to independence are produced, then only the certificate is to be granted. At the time of issuance of tribe/caste certificate, the authority has to be prima facie satisfied. Even otherwise, the said certificate has to face the test of scrutiny at the time of verification by the Committee."

4. Considering the above referred facts and on perusal of the material placed on record on the backdrop of order of this Court dated 01.11.2017, we are of the opinion that the learned Counsel for the petitioners made out a case.

5. Resultantly, the writ petitions are allowed. The order passed by respondent No.1-Sub-Divisional as well as the Scrutiny Committee, are quashed and set aside. Respondent No.1 - Sub-Divisional Officer is directed to issue Tribe Certificate to the petitioners that they belong to Koli-Mahadev - Scheduled Tribe, as early as possible, which would certainly be subjected for verification by the Scrutiny Committee.

6. With these directions, the writ petitions are disposed of.

[S.M.GAVHANE, J.]

[PRASANNA B. VARALE, J.]